

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 DAVID S. CHANEY
Chief Assistant Attorney General
3 FRANCES T. GRUNDER
Senior Assistant Attorney General
4 THOMAS S. PATTERSON
Supervising Deputy Attorney General
5 KENNETH T. ROOST, State Bar No. 231444
Deputy Attorney General
6 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
7 Telephone: (415) 703-5824
Fax: (415) 703-5843
8 Email: Ken.Roost@doj.ca.gov

9 Attorneys for Defendants Sather, Abanico, Curry, and
Crawford
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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 **IVAN VERNARD CLEVELAND,**

16 Plaintiff,

17 v.

18 **BEN CURRY, Warden, et al.,**

19 Defendants.
20

C 07-2809 JF (PR)

**DEFENDANTS' WAIVER OF
REPLY UNDER 42 U.S.C. §
1997e(g); DEMAND FOR
JURY TRIAL**

21 **I. Defendants Waive Their Right to Reply to the Complaint.**

22 Defendants Sather, Abanico, Curry, and Crawford (Defendants) waive their right to reply to
23 the complaint under 42 U.S.C. § 1997e(g). Under 42 U.S.C. § 1997e(g):

24 Any defendant may waive the right to reply to any action brought by a prisoner
25 confined in any jail, prison, or other correctional facility under . . . Federal law.

26 Notwithstanding any other law or rule of procedure, such a waiver shall not
27 constitute an admission of the allegations contained in the complaint. No relief
28 shall be granted to the plaintiff unless a reply has been filed.

1 However, "the Court may require any defendant to reply to a complaint brought under this
2 section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits." 42
3 U.S.C. § 1997e(g)(2).

4 Here, the Court has set a schedule for dispositive motions, but has not required any reply.
5 (See Order Directing Defs. to File Dispositive Mot. or Notice Re. such Mot.)

6 **II. Defendants Request a Jury Trial.**

7 Defendants demand a trial by jury in this case. Fed. R. Civ. P. 38(b).

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9 Dated: January 29, 2008

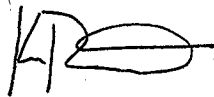
10 Respectfully submitted,

11 EDMUND G. BROWN JR.
Attorney General of the State of California

12 DAVID S. CHANEY
Chief Assistant Attorney General

13 FRANCES T. GRUNDER
Senior Assistant Attorney General

14 THOMAS S. PATTERSON
Supervising Deputy Attorney General

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18 KENNETH T. ROOST
Deputy Attorney General
Attorneys for Defendants
19 Sather, Abanico, Curry, and Crawford
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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Ivan Vernard Cleveland v. Ben Curry, Warden, et al.**

Case No.: **C 07-2809 JF (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On **January 29, 2008**, I served the attached

DEFENDANTS' WAIVER OF REPLY UNDER 42 U.S.C. § 1997e(g); DEMAND FOR JURY TRIAL

by placing a true copy thereof enclosed in a sealed envelope with the **California Overnight Service**, addressed as follows:

Ivan Cleveland (H-60545)
Correctional Training Facility
5 miles North Highway 101 N
Soledad, CA 93960
Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **January 29, 2008**, at San Francisco, California.

R. Panganiban

Declarant

/S/R. Panganiban

Signature